

Application Number: 20/10994 Full Planning Permission

Site: BROCKWOOD, 42 BARTON COMMON LANE,
BARTON-ON-SEA, NEW MILTON BH25 5PS

Development: Erect 4 no 3 bedroom houses with garages and parking; demolish
existing dwelling

Applicant: AJ Developments

Agent: Pure Town Planning

Target Date: 06/11/2020

Case Officer: Judith Garrity

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) The principle of development
- 2) Impact on character and appearance of area,
- 3) Impact on the operation of the Highway and highway safety
- 4) Biodiversity

This application is to be considered by Committee because of a contrary view of New Milton Town Council.

2 SITE DESCRIPTION

Brookwood is a large single storey dwelling set in landscaped grounds within the settlement of Barton-on Sea. The site comprises a large domestic garden curtilage and existing Spanish style bungalow, set within but on the edge of the settlement boundary of Barton on Sea. The site is just over 0.3 hectare in size. Access to the site is via an unmade private access road which passes through Barton Common which is owned by the Town Council. Barton Common is a designated local wildlife site identified as hosting priority habitat. A Public Right of Way passes through Barton Common and intersects with the access road.

Notice has not been served on the Town Council as landowner, the red line includes this access road up to the point where it joins with the public highway on Milford Road. The owner of the bungalow which currently occupies the site, together with the owner of the property to the south shown on some plans as Tangalooma but now known as Arboretum Cottage (46 Barton Common Lane), have legal right of access over this part of the Common.

Another property lies immediately to the north of the site known as Brackendale (38 Barton Common Lane). This property has its access from Barton Common Lane which is classified as a public highway.

Immediately to the west of the site on the other side of a dense conifer and tree lined boundary lies a modern estate known as Silverdale.

To the east of the site lies the Local Plan development boundary beyond is classified as part of the South West Hampshire Green Belt. This area is also available as public open space being part of the Common Land.

3 PROPOSED DEVELOPMENT

The proposal involves the demolition of the existing bungalow and its replacement with four 3 bedroom properties on two floors. The access road remains the same with each plot being provided with a garage and two parking spaces. The new dwellings are designed as 1.5 storey properties with brick walls and tiled roof finishes.

This proposal differs from the previous scheme (18/11146) only through the removal of three ground floor side windows from Plot 2. No further changes have been made.

An ecology report and transport statement have been submitted with this application.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
18/11146 detached houses; garages; parking; demolition of existing	13/11/2018	Refused	Appeal Decided	Appeal Dismissed

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

Policy STR1: Achieving Sustainable Development

Policy ENV1: Mitigating the impacts of development on International Nature Conservation sites

Policy ENV3: Design quality and local distinctiveness

Policy ENV4: Landscape character and quality

Policy IMPL1: Developer Contributions

Policy CCC2: Safe and sustainable travel

Local Plan Part 2: Sites and Development Management 2014

DM2: Nature conservation, biodiversity and geodiversity

DM8: Protection of public open space, private playing fields and sports grounds and school playing fields

New Milton Neighbourhood Plan

Policy NM4 – Design Quality

Supplementary Planning Guidance And Documents

SPD - Housing Design, Density and Character

SPD - Mitigation Strategy for European Sites

SPD - Parking Standards

SPD - New Milton Local Distinctiveness

Relevant Legislation

Relevant Advice

NPPF Ch. 5 - Delivering a sufficient supply of homes

NPPF Ch12: Achieving well designed places

NPPF Ch.15 - Conserving and enhancing the natural environment

NPPF Ch.13 - Protecting Green Belt land

6 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council

STRONGLY OBJECT (non-delegated)

Despite the Appeal Inspector's comments, we assert that the proposed development is

- (1) Contrary to Local Distinctiveness Document page 60 regarding spatial gaps
- (2) Overdevelopment
- (3) Access road does not allow two-way traffic/emergency vehicles as narrows to 2.8m
- (4) Loss of trees
- (5) Contrary to Neighbourhood Plan policy NM4 Design Quality.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

HCC Rights of Way: The proposed access intersects New Milton Footpath 722. Increased vehicular movements crossing the public right of way are likely to cause safety nuisance and conflict issues and there is likely to be a significant adverse impact on the amenity and recreational value of the route.

HCC Highways: The application is less than 5 dwellings and there is no required change of vehicular access to the highway. Please refer to Standing Advice.

NFDC Ecologist: An ecology report has been submitted. No objection is raised subject to securing the mitigation and enhancement measures indicated.

Environmental Health Contaminated Land: No concerns

Drainage: No comment.

HCC Surface Water No comment as this is a minor application of less than 10 dwellings. Offer advice.

Building Control: Confirmation is required that the access is wide enough for fire and rescue vehicles in case of emergency.

SGN: Offer advice

SSEN: Offer advice

9 REPRESENTATIONS RECEIVED

New Milton Resident Association: Object. This is the third application on this site; the current scheme does not satisfy the reason for rejecting the previous applications; access concerns; damage to habitats and ecology with no mitigation plans;

overdevelopment; not in accordance with emerging Neighbourhood Plan; area adjacent to SSI and character and environmental issues must be secured to retain the character of the area.

The following is a summary of the representations received

Comment: 3

Objection: 10

Objections summarised as follows:

- Limited changes from previous refusal, persistent developer
- Impact on tranquil area
- Noise and disturbance
- Out of character with existing individual properties
- Overdevelopment
- Overlooking
- Impact on wildlife and biodiversity
- Ecology report unsatisfactory
- Loss of trees and hedges.
- Tree removal will change the flood management of the site and increase level/overflow in the water course.
- Regular clearance of watercourse is required and that roots of the holly tree appear to be eroding the water course.
- Impact on woodland character
- Poor design with no green efficiency systems or climate change measures
- Traffic and access concerns
- Inconvenience during construction work and from deliveries
- Road safety due to narrow access
- Impact on unmade lane
- High water level
- Location on a well-used route for walkers and increase in vehicular use will limit this use
- Gravel track part of common land
- Site is unsuitable for development
- Limited impact on housing supply

Comments summarised as follows:

- Lack of planning statement
- Need for a maintenance agreement for upkeep of the access track and contributions to damage, pre commencement structure survey and speed restriction signs.
- Need for an inbuilt sprinkler system
- Utility services should be re-located at the applicants cost
- Construction activities should be limited to Monday to Friday only

10 PLANNING ASSESSMENT

The previous planning application 18/11146 was refused for the following 3 reasons and was subsequently dismissed at appeal in September 2019 a copy of the Inspector's decision letter is appended to this report. The three reasons for refusal were:

1. The proposed development by virtue of its scale, layout, and density conflicts with design guidance as set out in the Council's Policy CS2 of the Core Strategy, SPD - Housing Design, Density and Character, SPD - New Milton Local Distinctiveness, and guidance as set out in the National Planning Policy Framework 2018 (NPPF). The proposal fails to respect the character, quality, and valued attributes of the area and fails to respect and strengthen local identity and character. The proposal does

not contribute positively to local distinctiveness and sense of place and is unsympathetic to its settings and in its relationship to adjoining buildings and landscape features.

Whilst the Council cannot at this stage demonstrate a 5 year supply of land for housing it is considered that the development as planned would give rise to an adverse impact that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. In this respect the proposal does not constitute sustainable development.

2. The proposal fails to comply with Policy CS3 of the Core Strategy which requires development to contribute positively to biodiversity. The proposal includes no ecological submissions and fails to show how existing green infrastructure and local biodiversity will be retained, protected and enhanced.

3. The proposal by virtue of the additional number of dwellings intended will exacerbate the poor standard of vehicular and pedestrian access to the site, due to the increased number of vehicles using a narrow unmade access which has poor horizontal alignment and visibility for vehicles, including emergency vehicles, and pedestrians alike. The access road is not suited to this proposed additional increase in quantum of development and will give rise to reversing manoeuvres with vehicles potentially backing out onto the public highway. Such manoeuvres will also add to the danger for pedestrian users of the track including those using the public right of way. Neither are there any stated proposals for the effective and safe disposal of household waste given the lack of a designated bin storage area. The vehicular access track also constitutes Common Land in the ownership of the New Milton Town Council who object to the development now proposed. Overall, the proposal is considered to be contrary to Policy CS2 of the Core Strategy and Standing Advice published by the County Council Highway Authority.

The Inspector in considering the appeal identified the main issues as (i) the effect on biodiversity, including protected species;(ii) the character and appearance of the area and (iii) the safe and efficient operation of the highway network in the vicinity of the site. In dismissing the appeal, the Inspector concluded that;

- (i) that he could not be satisfied that the proposal would not have an unacceptable harmful effect on biodiversity, including protected species.
- (ii) That the proposed development would have an acceptable effect on the character and appearance of the area.
- (iii) That the proposal would have an acceptable effect on the safe and efficient operation of the highway network in the vicinity of the appeal site

Only very minor changes have been made to the scheme following the appeal although, the application is now supported by an ecological report.

The following planning assessment considers the new application in the light of the appeal decision and the identified main issues, as well as residential amenity and tree matters, in reaching a recommendation.

Principle of Development

The site is located within the built up area where residential development is acceptable subject to meeting relevant Policy requirements. The principle of development is not a matter of dispute.

Since the appeal was determined in September last year, the Local Plan has been adopted and the Council has published a Housing Land Supply Statement which sets out that the Council is able to demonstrate a five-year housing land supply based on the Local Plan 2016-2036 Part 1: Planning Strategy (as modified) for the period 2020/21-2024/25 and so can now demonstrate a five year housing land supply

Character and Appearance of Area

One of the grounds for refusal of the previous planning application was the impact of the proposed development on the character, appearance and local identity of the area and that it would unsympathetic to its settings and adjoining buildings and landscape features.

In dismissing the appeal, the Inspector considered that the appeal site is adjacent to No 46 and 38 Barton Common Lane and this group is well enclosed and concealed within tree and hedgerow lined boundaries. Because of this these properties appear to stand alone and separate from development at Silverdale and the lower density housing along Barton Common Lane.

Public views of the site are restricted to the area around the PROW. The application property is set forwards and considered to dominate its plot with its starkly rendered façade. Whilst the garden of Brockwood is attractive it is screened from view. Given the circumstances the site does not have an appreciable looseness or low density and was not considered by the Inspector to make a significant contribution to the character of Barton on Sea's verdant, peripheral environment.

In contrast to the existing situation, the Inspector considered that the proposed plots would be set back in the plot with the use of an appropriate palette of materials compatible with the area and gaps between the buildings would break up the mass and filter views towards the verdant western boundary. Gardens would be of an appropriate contextual shape and size and the amount of hardstanding similar to the existing dwelling that has a large forecourt area. The Inspector concluded that *"Despite being of a higher density, the proposed houses would have a softer appearance, harmonious with the surrounding environment"* (Para10).

It was noted that important trees would be retained, and comprehensive replanting would take place so that the limited contribution of the site to the landscape character of the area would be maintained in the long term. Furthermore, pressure for future tree works are unlikely to result given the relationship of the dwellings to these trees and their aspect.

On this issue the Inspector considered that the proposals would have an acceptable impact on the character and appearance of the area, according with policy and Supplementary Planning Guidance.

The current planning application seek permission for the same development as considered at the appeal. Since the appeal decision the New Milton Neighbourhood Plan has reached an advanced stage of preparation and so should be given weight in reaching planning decisions. The relevant policy is NM4 which refers to the New Milton Local Distinctiveness SPD and its text broadly reflects Policy ENV3 of the adopted Local Plan. This does not constitute a material change in circumstances that affects the conclusion reached, in the light of the appeal decision, that the proposal is acceptable in terms of its impact on the character and appearance of the area.

Highway safety, access and parking

Another ground for refusal of the previous planning application related to the poor standard of vehicular and pedestrian access to the site and the additional number of vehicles and pedestrians that would use the narrow unmade access which has poor horizontal alignment and visibility for vehicles. These factors were considered to have implications for highway and pedestrian safety including those using the public right of way. It is noted that HCC Rights of Way have objected to the current scheme on the basis of the increase in vehicular movements crossing the public right of way which they consider are likely to cause safety nuisance and conflict issues, likely to result in significant adverse impact on the amenity and recreational value of the route.

Highway safety was one of the main issues identified by the appeal Inspector. The Inspector considered that the increase of 15 vehicles over a 12 hour period - 1.25 trips/hour - would be material but it was nevertheless be modest, and that 2 vehicles meeting on the lane would continue to be an established but infrequent occurrence.

The Inspector considered that the first part of the access has an adequate width for two vehicles to share and this would prevent the need to reverse back onto Barton Common Lane. The section nearest to the appeal site which incorporates the bend in the carriage way and the crossing point of the PROW has restricted visibility and it is too narrow for vehicles to pass., However, if two vehicles did meet there would be an opportunity to reverse back the short distance into the passing and turning space in the vicinity of the houses. The uneven and unsurfaced nature of the access at this point would mean that the speed of this manoeuvre would be limited. As the PROW intersects the site access the woodland gives way to openness of the road. Users of the PROW would therefore have the opportunity to see and hear an oncoming vehicle prior to entering the carriageway, particularly as the area is tranquil and vehicles would be noisy as they drive over the loose surface. As the constraints of the access would be known to the majority of drivers it is likely that vehicles using the lane would be travelling at proportionately low speed, aware of potential conflicts.

Emergency access was considered by the Inspector he noted that this was an existing constraint and that there is no evidence that access was not possible to the site if it was essential. The provision of bin storage and construction traffic were considered but could be controlled by condition. Overall, the Inspector considered that *“there is no substantive basis to conclude that the modest increase in use of the existing access would prejudice its integrity or significantly affect the safety of its users and other users of the highway network the proposal would have an acceptable effect on the safety and efficient operation of the highway network in the vicinity of the appeal site “*(Para 18 and 19).

In the light of the Inspectors conclusions on this issue, despite the comments made by the Town Council and in third party comments, the conclusion is that the proposals would have an acceptable impact on the safe and efficient operation of the highway network in the vicinity of the appeal site.

It should be noted that Policy IMPL2 related to development standards places a requirement on new developments to make provision to enable the convenient installation of charging points for electric vehicles and details would be expected to be secured by a condition prior to first occupation of the units.

Ecology, on site Biodiversity and protected species

Paragraph 170 of the NPPF advises that decisions should contribute to and enhance the environment by minimising impacts on and providing net gains for biodiversity.

Paragraph 175 states that if significant harm to biodiversity cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused. Circular 06/2005 advises that the presence of a protected species is a material consideration when a development proposal would be likely to result in harm to the species or its habitat. Under the Habitat Regulations consideration must be given to the potential effect of development on protected species.

The previous application did not include any ecological information, and this was one of the reasons for refusal. In dismissing the appeal, the Inspector considered biodiversity, including protected species, was a main issue. The potential biodiversity implications of the scheme were three fold relating to intensification of the use of the access track, the demolition of the existing property and impact on integral habitats and the felling to trees and clearing of vegetation leading to a loss for features used by wildlife particularly as tree report identified a medium to high probability of protected species (bats) using trees within the site for roosting.

In the absence of a detailed ecological appraisal or survey it could not be ascertained what the potential effect of the proposed development would be or to reach an informed conclusion on essential avoidance, compensation or mitigation. He was also unable to consider his responsibility as competent authority regarding the prospect of a European Protected Species (EPS) License being granted. The Inspector concluded, in the absence of a detailed ecological appraisal or survey, he could not be satisfied that the proposals would not have an unacceptable harmful effect on biodiversity including protected species (para 5-7 of decision letter).

An ecology report has now been submitted with the current application. This report identifies that the existing access track is within Barton Common North SINC and construction could negatively impact on this designation. A Construction Method Statement is therefore required to mitigate this impact. A phase 1 survey has been undertaken and this was done in the optimum survey period. The report makes recommendations in relation to species including treatment and removal of invasive plants, the need for a sensitive lighting strategy and timing of vegetation clearance with respect to nesting birds and the ecological supervision of reptiles. A range of habitat enhancement measures are included which would deliver biodiversity net gain in line with NPPF and the Local Plan.

In the light of the submission of the ecological survey information and habitat enhancements it can now be concluded that the development with mitigation will not have unacceptable, harmful effect on biodiversity including protected species.

Residential amenity

There were no residential amenity objections raised to the previous application with respect to impacts on existing properties. The current proposals make minor changes to side windows of Plot 2 which improve the relationship with its relationship with Plots 1 and 3 on the site. The relationship between the 4 new properties would be acceptable in terms of proposed fenestration, orientation and relative separations. The relationship of the proposed new dwellings to site boundaries are unaltered from those considered acceptable in the previous application.

Trees

There are no changes in the relationship between the proposed new dwellings on the site and trees, the proposals for protection and replanting. There is a large mixture of small trees and plants within the garden including a mature Monterey Pine that is situated in the south eastern corner of the site and a mature Oak tree situated to the south of plot 2. Tree removal is required as part of the development, but

these trees are either small or have a limited life due to their poor condition. The proposed replacement trees will enhance the future landscape contribution that would be provided by the existing trees to be removed.

While the remaining vegetation may contribute to the general green character of the area none of it is suitable for inclusion within a Tree Preservation Order. No objection was previously made on tree grounds subject to a condition relating to tree protection and there is no change in this planning assessment

Habitat Mitigation

In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but that such adverse impacts would be avoided if the applicant were to enter into a Section 106 legal agreement to secure a habitat mitigation contribution in accordance with the Council's Mitigation Strategy. In this case, the applicant will enter a legal agreement or unilateral undertaking which secures the required habitat mitigation contribution prior to the planning decision being issued.

Nitrate neutrality and impact on Solent SAC and SPAs

In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting permission which includes an element of new residential overnight accommodation would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the River Solent catchment unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place prior to any new dwelling being occupied.

In accordance with the Council Position Statement agreed on 4th September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency calculation together with a mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development. A Grampian style condition has been agreed with the applicant and is attached to this consent.

At this stage there are no immediately available nitrate mitigation solutions but the Council is working (1) with The Partnership for South Hampshire, to identify and lobby government for strategic solutions for the subregion, and (2) with the National Park Authority, with ecological consultants appointed and working on identifying practicable options for on- and -offsite mitigation for both drainage runoff and wastewater in our area.

Managing Air Quality

Since July 2020 the Council is required to ensure that impacts on international nature conservation sites are adequately mitigated in respect of traffic-related nitrogen air pollution (including NO_x, nitrogen deposition and ammonia). Given the uncertainties in present data, a contribution is required to undertake ongoing

monitoring of the effects of traffic emissions on sensitive locations. A monitoring strategy will be implemented to provide the earliest possible indication that the forms of nitrogen pollution discussed (including ammonia concentrations) are beginning to affect vegetation, so that, if necessary, measures can be taken to mitigate the impact and prevent an adverse effect on the integrity of the SAC habitats from occurring. A financial contribution is required towards monitoring and, if necessary (based on future monitoring outcomes) managing or mitigating air quality effects within the New Forest SPA, SAC and Ramsar site, which will be secured by a legal agreement or unilateral undertaking agreement before the planning permission is issued.

Developer Contributions

As part of the development, the following will be secured via a Section 106 agreement or Unilateral undertaking:

- Habitat mitigation
- Air Quality mitigation

As part of the development, subject to any relief being granted the following amount Community Infrastructure Levy will be payable:

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	623.6	296.9	326.7	326.7	£80/sqm	£33,574.71 *
Subtotal:	£33,574.71					
Relief:	£0.00					
Total Payable:	£33,574.71					

11 CONCLUSION

The current application follows an appeal that was dismissed in September 2019. There are only minor changes to the scheme and the number of dwelling proposed is still 4 (net increase of 3). The Inspector considered that the impact of development on the character and appearance of the area and highway safety issues associated with use of the narrow access to the site were acceptable. The appeal was dismissed only on the lack of ecological survey information being submitted so that these impacts could not be adequately considered.

This ecological information has now been provided which demonstrates how adequate mitigation and enhancements can be achieved the site. Within the context of the previous appeal and this additional information, the application is therefore recommended for approval subject to prior completion of an agreement to secure habitat and air quality mitigation contributions and the conditions as stated.

12 OTHER CONSIDERATIONS

Comments have been made about the need for a maintenance agreement for the upkeep of the access track, contributions to damage, a pre- commencement structure survey and speed limit signage. The access track is within the ownership of

New Milton Town Council and notice was served as part of the planning application process. The access is considered to be acceptable in the light of the appeal decision (as set out above) and the issues raised above are civil matter that could be agreed between the parties.

13 RECOMMENDATION

Delegated Authority be given to the Chief Planning Officer to **GRANT PERMISSION** subject to:

- i) the completion of a planning obligation entered into by way of a Section 106 Agreement or a Unilateral Undertaking to secure habitat and air quality mitigation contributions.
- ii) the imposition of the conditions set out below.

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development permitted shall be carried out in accordance with the following approved plans:

100 Rev D; 101 Rev B; 102 Rev B; 103 Rev B; 104 Rev B; 105 Rev B; 106 Rev C; 107 Rev A; GH1860A; GH1860B;
Ecology report Final Version 2.0 dated 24th August 2020;
Tree Report (Gwydion's Tree Consultancy Ref GH1860 dated 17.8.2018);
Transport Statement (Paul Bashan Associates) dated August 2018 (Document No 114.0008/TS/1).

Reason: To ensure satisfactory provision of the development.
3. No development shall take place including any demolition and site clearance until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include the following details:
 - (a) a programme and phasing of construction work;
 - (b) the provision of facilities for contractor parking;
 - (c) the arrangements for deliveries associated with all construction works;
 - (d) methods and phasing of construction works;
 - (e) access and egress for plant and machinery;
 - (f) protection of pedestrian routes during construction; and
 - (g) the location of temporary site buildings, compounds, construction materials and plant storage areas.
 - (h) the specific hours and days of construction on the site so as to avoid Saturdays, Sundays and Bank Holidays

Development shall be implemented in accordance with the approved CMP. For the avoidance of doubt no work whatsoever shall take place to the access road leading to the site without the prior written approval of such works in writing from the Local Planning Authority.

Reason: To ensure that the construction does not negatively impact on protect species within the site. The site also lies close to other residential properties who may be adversely affected by construction noise.

4. No development, including any demolition and site clearance, shall take place until a detailed scheme of hard and soft landscaping and a tree planting schedule for the site have been submitted to the local planning authority for its written approval. This scheme shall include:
- (a) the existing trees and shrubs which have been agreed to be retained; along with the means for protecting such trees
 - (b) a specification for new planting (species, size, spacing and location);
 - (c) details of the planting system to be used for trees within the hardstanding areas;
 - (d) details of the areas for hard surfacing and the materials to be used;
 - (e) details of the boundaries of the site and all other means of enclosure;
 - (f) a method and programme for its implementation, and the means to provide for its future management, including a watering scheme and maintenance.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the development hereby permitted or its completion, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development hereby permitted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species.

Reason: In the interests of the character and appearance of the development and in accordance with Policy ENV3 and ENV4 of the Local Plan Part 1 for the New Forest outside of the National Park

5. No development shall take place until details of the means of disposal of foul water from the site have been submitted to the local planning authority for its written approval. No above ground construction shall take place until these details have been approved, and then only in accordance with the approved details.

Reason: To ensure that the site is adequately serviced and that trees intended to be retained are not prejudiced by any service trenches.

6. No development shall take place until surface water drainage works have been submitted to the local planning authority for its written approval, and the development hereby permitted shall not thereafter be occupied until the approved surface water drainage works have been fully implemented. Before any details are submitted to the local planning authority an assessment shall have been carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall then be provided to the local planning authority with the proposed scheme of surface drainage works. Where a sustainable drainage scheme is to be provided, the submitted details
- (a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - (b) include a timetable for its implementation; and,
 - (c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure that the site is adequately serviced and drained and that local surface water issues are not exacerbated by the approved development.

7. Prior to any works taking place above dpc level for each unit samples or exact details of the facing and roofing materials to be used, together with full details of all new windows and doors, including the means of opening for all windows and depth of reveals and make up of cills shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the buildings on the site in accordance with Policy ENV3 of the Local Plan Part 1 for the New Forest District outside the National Park.

8. The dwellings hereby permitted shall not be occupied until the car parking and garages together with a site turning area has been put in place and made available for use for each individual dwelling in accordance with the details on plan 9074/100 D. Such car parking, garaging and turning facilities shall be retained for that purpose and maintained in perpetuity thereafter to serve the approved dwellings.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy ENV3 and CCC2 of the Local Plan Part 1 Planning Strategy for the New Forest outside of the National Park.

9. Prior to any works taking place above dpc level of the first dwelling on the site hereby approved details of the provision to be made for refuse storage and collection points including plans and details of siting and appearance of the refuse stores shall be submitted to and approved in writing by the Local Planning Authority. Such facilities be provided prior to occupation of the first dwelling on the site and thereafter be retain for this purpose.

Reason: To ensure appropriate provision is made for refuse storage particularly given the access to the site and in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest outside of the National Park.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension (or alterations) otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, garage approved by Class E of Part 1 of Schedule 2 to the Order, or means of enclosure otherwise approved by Class A of Part 2 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.

Reason: In view of the physical characteristics of the site, the character of the area and the density of development, the Local Planning Authority would wish to ensure that any future development proposals do not adversely affect the visual amenities and character of the area and the amenities of neighbouring properties and in accordance with Policy ENV3 of the Part 1 Local Plan Planning Strategy for the New Forest District outside the National Park.

11. The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH

Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

12. The works hereby approved shall be undertaken in strict accordance with the Ecological Survey methodology and details (Ecology report Final Version 2.0 dated 24th August 2020) submitted with planning application 20/10994 unless otherwise first agreed in writing with the Local Planning Authority. The biodiversity conservation and enhancement plan shall be completed prior to its first occupation of the new dwellings. Such enhancement proposals shall be maintained in perpetuity thereafter.

Reason: To safeguard protected species and ensure appropriate biodiversity enhancements in accordance with Policies ENV1 of the Local Plan Part One: Planning Strategy and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

13. Prior to the first occupation of the dwellings hereby approved provision shall be made within the site for the convenient installation of charging points for electric vehicles which shall thereafter be retain for this purpose.

Reason: To ensure appropriate provision is made for charging points and in accordance with Policy IMPL2 of the Local Plan Part 1 Planning Strategy for the New Forest outside of the National Park.

14. The trees on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted Gwydion Tree Consultancy Arboricultural Method Statement (GH1860) dated 17/08/2018 and Tree Protection Plan (GH1860b) dated 16/08/2018 while in accordance with the recommendations as set out in BS5837:2012.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area and in accordance with Policy ENV3 and ENV4 of the Local Plan Part 1 Planning Strategy for the New Forest District outside of the National Park.

Further Information:

Judith Garrity

Telephone: 023 8028 5434



Appeal Decision

Site visit made on 13 August 2019

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/B1740/W/19/3221006

Brockwood, 42 Barton Common Lane, Barton-On-Sea BH25 5PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by AJ Developments against the decision of New Forest District Council.
 - The application Ref 18/11146, dated 21 August 2018, was refused by notice dated 13 November 2019.
 - The development proposed is to demolish existing dwelling and erect 4 no 3 bedroom houses with garages and parking.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on (i) biodiversity, including protected species (ii) the character and appearance of the area, and (iii) the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

Biodiversity

3. Brockwood is a large single storey dwelling set in landscaped grounds within the settlement of Barton-On-Sea. Access is via an unmade private access road which passes through Barton Common, which is a designated local wildlife site identified as hosting priority habitat. A Public Right of Way (PROW) passes through the Common and intersects with the access road.
4. Paragraph 170 of the National Planning Policy Framework (the Framework) advises that decisions should contribute to and enhance the environment by minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that if significant harm to biodiversity cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused. Circular 06/2005 advises that the presence of a protected species is a material consideration when a development proposal would be likely to result in harm to the species or its habitat. I am required by the Habitats Regulations¹ to consider the potential effect on protected species in such cases.
5. As identified by the Council's ecologist, the potential biodiversity implications of the scheme are three-fold. It would intensify vehicular use of the access track which passes through the Common, demolition of Brockwood and its associated structures may destroy integral habitat, and the felling of trees and clearing of vegetation may also lead to the loss of features used by wildlife. On this last

¹ Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017

- point, the appellant's tree report identifies that there is a medium to high probability of protected species (bats) using trees within the site for roosting.
6. There is therefore a reasonable likelihood of protected species and/or priority species and their habitats being present and affected by the development. As no detailed ecological appraisal or surveys have been submitted, I cannot ascertain the potential effect of the proposal in this regard, or conclude as to the merits of any potentially essential avoidance, compensation or mitigation. I am also unable to consider my responsibility as competent authority regarding the prospect of a European Protected Species (EPS) License being granted.
 7. As such, I cannot be satisfied that the proposal would not have an unacceptable, harmful effect on biodiversity, including protected species. The proposal would therefore conflict with the biodiversity aims of Policy CS3 of the Core Strategy for the New Forest District outside the National Park (adopted 2009) (CS) and the Framework in this regard.

Character and appearance

8. As reflected in the New Milton Local Distinctiveness Supplementary Planning Document (adopted 2010), the part of Barton-On-Sea around the appeal site is punctuated by significant tree groupings and housing becomes less dense nearer to the countryside edge. The appeal site is adjacent to 46 and 38 Barton Common Lane and the group are well enclosed and concealed within tree and hedgerow lined boundaries. As such, they appear to stand alone, separate from both the residential development at the adjacent Silverdale and the lower density housing along Barton Common Road to the south.
9. Public views of the site are largely restricted to the area around the PROW, from where Brockwood is experienced as a starkly rendered building with an extensive mass and a strong horizontal emphasis. It is set forward and its two wings are angled as to face the site entrance, leading it to dominate its plot. Although Brockwood's garden is an attractive feature, it is hidden behind the dwelling. Given the circumstances, the site does not have an appreciable looseness or low density, and, beyond glimpsed views of the mature trees along its rear boundary, it makes no significant contribution to the character of Barton-On-Sea's verdant, peripheral environment.
10. The proposed dwellings would be set back further into the site than Brockwood, utilising a muted palette of materials compatible with the semi-rural setting and the surrounding houses. Small gaps between the buildings and the hipped roofs would break up the massing and allow some filtered views through to the verdant west boundary. Gardens would be of an appropriate contextual shape and size, comparing more favourably to those of 38 and 46, which are on smaller, more tapered plots. The amount of hardstanding would be broadly equivalent to the existing dwelling, which has a large parking forecourt. As such, despite being higher density, the proposed houses would have a softer appearance, harmonious with the surrounding environment.
11. I note from the arboricultural evidence that a significant amount of the green infrastructure on the west boundary would be removed as a consequence of the development. However, the trees of notable merit would be retained, and the site plan indicates that comprehensive replanting would take place. As such, the site's limited contribution to the landscape character of the area would be maintained long term. With regard to pressure for future works, the

Monterey Pine would be a sufficient distance away from Plot 4's rear elevation. Although the middle plots are more contained and closer to the Holly and Oak trees, they have a partially southerly aspect, which will allow adequate sunlight into the garden and dwelling, making it unlikely that there would be justifiable calls for further tree work in the future.

12. I have been directed to an appeal elsewhere in the area². The site in that case occupies a prominent corner position within the street scene. As such, the circumstances in that appeal were significantly different, and the decision has had limited weight in my assessment.
13. I therefore find on this issue that the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the design aims of Policy CS2 of the CS and the Framework. I also find no conflict with the relevant guidance contained within the Housing design, density and character Supplementary Planning Document (adopted 2006) and the New Milton Local Distinctiveness Supplementary Planning Document (adopted 2010).

Highway safety

14. The appellant has calculated, using the TRICS database, that the scheme would generate an additional 15 trips over a 12-hour period, which equates to an average of 1.25 trips an hour. The Council has not disputed these figures and, given the site's location within a well serviced settlement, with good access to pedestrian routes, I find them reliable. Although I accept that this increase would be material, it would nonetheless be modest, and two vehicles meeting in the lane would continue to be an established but infrequent occurrence.
15. The first section of the access road has adequate width for vehicles to share the space, preventing the need for reversing back on to Barton Common Lane. The section nearest to the appeal site, which incorporates the bend in the carriageway and the crossing point of the PROW, has restricted visibility and is not wide enough for vehicles to pass. However, if two vehicles were to meet at this point the exiting party would have the opportunity to reverse back the short distance into the passing and turning space in the vicinity of the houses.
16. Such a manoeuvre would take place in the area of the PROW. As the PROW passes across the woodland floor it is uneven and unsurfaced, which logically restricts the speed of its users. As it intersects the site access, the woodland noticeably gives way to openness of the road. Users of the PROW would therefore have the opportunity to see or hear an oncoming vehicle prior to entering the carriageway, particularly as the environment is largely tranquil and vehicles would be noisy as they passed over the loose surface. Further, given that the constraints of the access road would be known to the majority of drivers, I find it likely that, in all but exceptional cases, vehicles using the lane would be travelling at a proportionately low speed, aware of potential conflict.
17. I acknowledge the poor alignment and uncompacted surface of the road. However, no substantive evidence has been provided to demonstrate that the increase in its use would cause fundamental damage. Although I note from a representation that an ambulance previously encountered difficulty, this is an existing constraint, and there is no evidential basis upon which to conclude that emergency services would be physically unable to gain access to the

² Appeal Ref: APP/B1740/W/19/3226044

development if it were essential to do so. With regard to refuse collection, this is already a practical reality in relation to the existing properties. A designated bin store area could be required by a condition in the event I was minded to allow the appeal. The frequency and type of construction vehicle using the access could also be controlled by a condition.

18. As such, whilst I appreciate the concerns expressed by the Council, the Town Council and interested parties in relation to this matter, there is no substantive basis to conclude that the modest increase in use of the existing access would prejudice its integrity or significantly affect the safety of its users and other users of the highway network.
19. I therefore find on this issue that the proposal would have an acceptable effect on the safe and efficient operation of the highway network in the vicinity of the appeal site. It would accord with the requirements of Policy CS2 of the Core Strategy, the Framework and the guidance within Hampshire County Council's standing advice document in this respect.

Other Matters

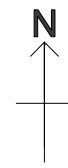
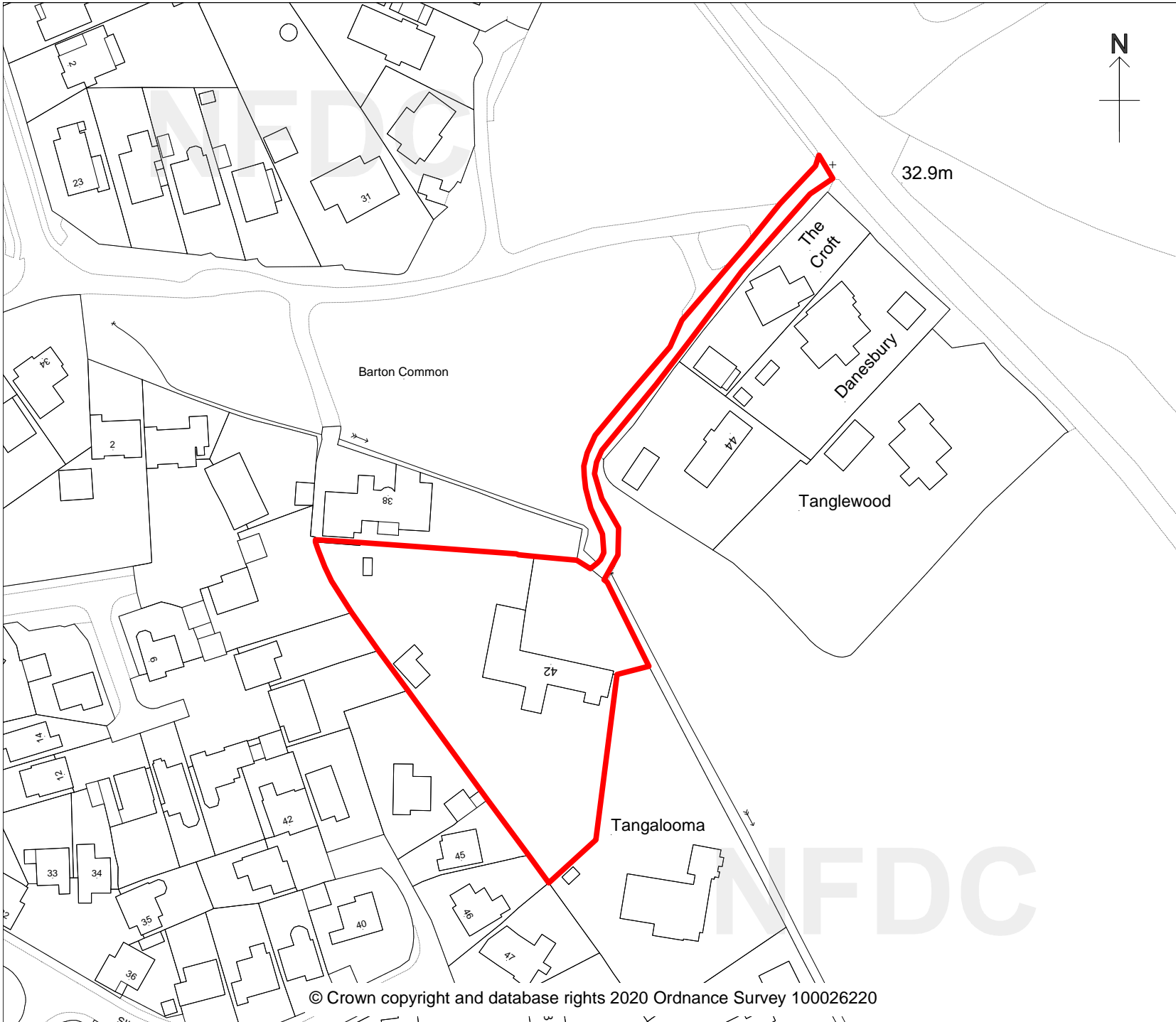
20. The site is within influence of the New Forest and Solent Coastal European Sites (the SPAs). There is no dispute that it cannot be ruled out that the proposal would have significant recreational effects on the features of interest of the SPAs. The Council, in carrying out an Appropriate Assessment, has found that payments towards mitigation, as outlined in the Mitigation Strategy Supplementary Planning Document (adopted 2014), could be secured with a negatively worded planning condition. Had I been minded to allow the appeal, it would have been necessary for me to consider this information within an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, I have not taken this matter further.

Planning Balance and Conclusion

21. The Council states that it cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 11 d (ii) of the Framework therefore applies, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. The houses would contribute towards meeting the shortfall. However, due to the small scale of the development I consider that this benefit would be modest. I cannot be satisfied that the scheme would not have an unacceptable effect on biodiversity, including protected species. Given the advice in the Framework in relation to this matter, and my responsibilities as competent authority in this regard, this is harm which significantly and demonstrably outweighs the benefits of the proposal. The absence of harm in relation to the character and appearance of the area and highway safety are neutral factors in my assessment.
23. Taking all matters into account, I find that the proposal would conflict with the development plan as a whole. There are no other considerations, including the Framework, that outweigh the conflict. As such, the appeal shall be dismissed.

Matthew Jones

INSPECTOR



New Forest
DISTRICT COUNCIL

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PLANNING COMMITTEE

November 2020

Brockwood, 42 Barton Common Lane
Barton on Sea
New Milton
BH25 5PS

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.